

#4

## IN THE UNITED STATES PATENT &amp; TRADEMARK OFFICE

APPLICANT(S): Wolfgang WINKLER ATT. DOCKET: 870-003-171  
SERIAL NO. 10/ 500,541 = \$ 371 of PCT/EP02/13822  
FILED: 1 JULY 2004 ART UNIT: TO DE ASSIGNED  
FOR: MINIATURE FAN OR MICRO-FAN

## RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS

6 JAN. 2005

COMMISSIONER FOR PATENTS  
ATT'N: KAREN WILLIAMS, PCT BRANCH  
PO BOX 1450  
ALEXANDRIA VA 22313-1450

Sir:

Please be advised that a signed declaration, a copy of which follows this sheet, was filed on 1 JUL. 2004. Also enclosed are copies of the postcard & Express Mail papers, as requested. Please issue a PCT 903 NOTICE OF ACCEPTANCE.

Respectfully submitted,

*Milton Oliver*

Milton Oliver, Reg. # 28,333  
Attorney for Applicant  
P.O. BOX 224  
MONROE, CT 06468-0224  
TEL: 203-261-1234  
FAX: 203-261-5676

CUST. NO.: 004955

## CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to Patent Office PCT BRANCH at 703-746-6701 on 6 JAN. 2005.

*Milton Oliver*

Milton Oliver, Reg. No. 28,333

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PAGE 1 OF 13

Practitioner's Docket No. 870-003-171

## IN THE UNITED STATES DESIGNATED OFFICE (DO/US)

PCT/EP02/13822	6 DEC. 2002	11 JAN. 2002
INTERNATIONAL APPLICATION NO.	INTERNATIONAL FILING DATE	PRIORITY DATE CLAIMED
MINIATURE FAN OR MICRO-FAN		
TITLE OF INVENTION		
Wolfgang Arno WINKLER		
APPLICANT(S) FOR DO/US		

Mail Stop PCT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

COMPLETION OF FILING REQUIREMENTS  
FOR INTERNATIONAL APPLICATION ENTERING NATIONAL  
STAGE IN U.S. DESIGNATED OFFICE (DO/US) UNDER 35 U.S.C. § 371  
(PCT CHAPTER 2 NATIONAL ENTRY)  
(check and complete the following item, if applicable)

- ☐ This replies to the Notice of Missing Requirements under 35 U.S.C. § 371 and 37 C.F.R. § 1.494 (FORM PCT/DO/EO/905). (~~ANTICIPATED~~—NOT YET ISSUED)
- ☐ A copy of FORM PCT/DO/EO/905 accompanies this response.

**WARNING:** Where the items being submitted to complete the entry of the international application into the national phase are filed subsequent to the initial application is still considered to be in the international stage. If mailing procedures are utilized to obtain a date, the express mail procedure of 37 C.F.R. § 1.10 must be used (because international application papers are not covered by an ordinary certificate of mailing. 37 C.F.R. § 1.8(2)(x)).

**NOTE:** Documents and fees must be clearly identified as a submission to enter the national stage under 35 U.S.C. § 371. Otherwise, the submission will be considered as being made under 35 U.S.C. § 111. 37 C.F.R. § 1.494(f).

**EXPRESS MAILING UNDER 37 C.F.R. § 1.10\***  
(Express Mail label number is mandatory.)  
(Express Mail certification is optional.)

I hereby certify that this paper, along with any document referred to, is being deposited with the United States Postal Service on this date 1 JULY 2004, in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 as "Express Mail Post Office to Addressee" Mailing Label No. EV 452364894 US

**Dorothy Tomasco**

(Type or print name of person mailing paper)

*Dorothy Tomasco*

Signature of person certifying

**WARNING:** Certificate of mailing (first class) or facsimile transmission procedures of 37 C.F.R. 1.8 cannot be used to obtain a date of mailing or transmission for this correspondence.

**\*WARNING:** Each paper or fee filed by "Express Mail" must have the number of the "Express Mail" mailing label placed thereon prior to mailing. 37 C.F.R. 1.10(b).

"Since the filing of correspondence under § 1.10 without the Express Mail mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will not be granted on petition." Notice of Oct. 24, 1996, 60 Fed. Reg. 56,439, at 56,442.

(Completion of Filing Requirements for International Application Entering National Stage in Designated Office (DO/US) under 35 U.S.C. § 371 [13-8]—page 1 of 6)

**EV452364894US**

**DECLARATION OR OATH**

**NOTE:** 37 C.F.R. § 1.495(c): "If applicant complies with paragraph (b) of this section before expiration of thirty months from the priority date but omits . . . the oath or declaration of the inventor (35 U.S.C. 371(c)(4) and § 1.497), if a declaration of inventorship in compliance with § 1.497 has not been previously submitted in the international application under PCT Rule 4.17(iv) within the time limits provided for in PCT Rule 26ter.1, applicant will be so notified and given a period of time within which to file the . . . oath or declaration in order to prevent abandonment of the application . . . The payment of the surcharge set forth in § 1.492(e) is required for acceptance of the oath or declaration of the inventor later than the expiration of thirty months after the priority date."

- I. ☐ No original declaration or oath was filed. Enclosed is the original declaration or oath for this application.

OR

- ☒ The declaration or oath that was filed was determined to be defective.\*A new original or oath or declaration is attached.

**NOTE:** For surcharge fee for filing declaration after filing date, complete item IV(2). **\*UNSIGNED**

**NOTE:** Acceptable minimums in the declaration in an ordinarily filed U.S. application for identification of the specification to which it applies are:

- (A) application number (consisting of the series code and the serial number, e.g., 08/123,456);
- (B) serial number and filing date;
- (C) attorney docket number which was on the specification as filed;
- (D) title of the inventor which was on the specification as filed and reference to an attached specification which is both attached to the oath or declaration at the time of execution and submitted with the oath or declaration; or
- (E) title of the inventor which was on the specification as filed and accompanied by a cover letter accurately identifying the application for which it was intended by either the application number (consisting of the series code and the serial number, e.g., 08/123,456), or serial number and filing date. Absent any statement(s) to the contrary, it will be presumed that the application filed in the PTO is the application which the inventor(s) executed by signing the oath or declaration.

M.P.E.P. § 602, 8th ed.

**NOTE:** Another minimum found acceptable in the declaration is the filing date (i.e., date of express mail) and the express mail number, useful where the serial number is not yet known. But note the practice where the express mail deposit is a Saturday, Sunday or holiday within the District of Columbia. 37 C.F.R. § 1.10(c).

**NOTE:** 37 C.F.R. § 1.41(a) points out that "Full names must be stated, including the family name and at least one given name without abbreviation together with any other given name or initial."

(complete (a) or (b), if applicable)

Attached is a

- (a) ☐ Statement by a registered attorney that the application filed in the PTO is the application that the inventor executed by signing the declaration.
- (b) ☐ Statement that the "attached" specification is a copy of the specification and any amendments thereto that were filed in the PTO to obtain the filing date.

(Completion of Filing Requirements for International Application Entering National Stage in Designated Office (DO/US) under 35 U.S.C. § 371 [13-8]—page 2 of 6)

**AMENDMENT**

II.

(complete as applicable)

- ☐ An amendment in accordance with 37 C.F.R. § 1.121 is attached.
- ☐ The attached amendment cancels claims \_\_\_\_\_ inclusively.

**TRANSMITTAL OF ENGLISH TRANSLATION  
OF NON-ENGLISH LANGUAGE PAPERS**

**NOTE:** 37 C.F.R. § 1.495(c): "If applicant complies with paragraph (b) of this section before expiration of thirty months from the priority date but omits . . . a translation of the international application, as filed, into the English language, if it was originally filed in another language (35 U.S.C. 371(c)(2)). . . . applicant will be so notified and given a period of time within which to file the translation . . . in order to prevent abandonment of the application. The payment of the processing fee set forth in § 1.492(f) is required for acceptance of an English translation later than the expiration of thirty months after the priority date . . . . A 'Sequence Listing' need not be translated if the 'Sequence Listing' complies with PCT Rule 12.1(d) and the description complies with PCT Rule 5.2(b)."

- III. ☐ Submitted herewith, is an English translation of the non-English language international application papers as originally filed. It is requested that this translation be used as the copy for examination purposes in the PTO. (See 37 C.F.R. § 1.495(c)).

**NOTE:** For fee for processing a non-English application, and submission of an English translation later than 30 months after the priority date, complete item IV(3) below.

**NOTE:** A non-English oath or declaration in the form provided or approved by the PTO need not be translated. 37 C.F.R. § 1.69(b).

**FEES**IV. **NO ADDITIONAL FEE IS NEEDED, BEYOND FEES PAID 30 JUNE 2004,**

**NOTE:** See 37 C.F.R. § 1.28(a).

**BECAUSE THE 30 MONTHS DO NOT EXPIRE UNTIL  
11 JULY 2004.**

## 1. Fees for claims

- ☐ Each independent claim in excess of 3  
(37 C.F.R. § 1.492(b)—\$86.00; small entity—\$43.00) \$ \_\_\_\_\_
- ☐ Each claim in excess of 20  
(37 C.F.R. § 1.492(c)—\$18.00; small entity—\$9.00) \$ \_\_\_\_\_
- ☐ Multiple dependent claim(s)  
(37 C.F.R. § 1.492(d)—\$290.00;  
small entity—\$145.00) \$ \_\_\_\_\_

## 2. Surcharge fees

- ☐ Surcharge for filing the oath or declaration later than  
thirty months from the priority date pursuant to  
§ 1.495(c) and § 1.492(e): \$130.00; small entity—\$65.00 \$ \_\_\_\_\_

**NOTE:** The processing fee in the next item (Number 3) below is not subject to a reduction for small entity status.

3. ☐ For filing an English translation of an international  
application later than thirty months after the  
priority date (§ 1.495(c)) and § 1.492(f): \$130.00 \$ \_\_\_\_\_

Total fees \$ \_\_\_\_\_

(Completion of Filing Requirements for International Application Entering National Stage in Designated Office  
(DO/US) under 35 U.S.C. § 371 [13-8]—page 3 of 6)

**SMALL ENTITY STATUS**V. ☐ An assertion that this filing is by a small entity*(check and complete applicable items)*

- a. ☐ Is attached.  
☐ was filed on \_\_\_\_\_ (original).  
☐ was made by paying the basic national filing fee as a small entity.  
☐ Is being made now by paying the basic national filing fee as a small entity.
- b. ☐ A separate refund request accompanies this paper.

**EXTENSION OF TIME***(complete (a) or (b), as applicable)*

VI.

NOTE: 37 C.F.R. § 1.704(b) "... an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph."

The proceedings herein are for a patent application. The provisions of 37 C.F.R. § 1.136(a) apply.

(a) ☐ Applicant petitions for an extension of time, the fees for which are set out in 37 C.F.R. § 1.17(a)(1)-(4), for the total number of months checked out below

<input type="checkbox"/> one month	\$ 110.00	\$ 55.00
<input type="checkbox"/> two months	\$ 420.00	\$ 210.00
<input type="checkbox"/> three months	\$ 950.00	\$ 475.00
<input type="checkbox"/> four months	\$ 1,480.00	\$ 740.00
<input type="checkbox"/> five months	\$ 2,010.00	\$ 1,005.00

Fee: \$ \_\_\_\_\_

If an additional extension of time is required, please consider this a petition therefore.

*(check and complete the next item, if applicable)*

- ☐ An extension for \_\_\_\_\_ months has already been secured. The fee paid therefor of \$ \_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ \_\_\_\_\_

or

- (b) ☒ Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

(Completion of Filing Requirements for International Application Entering National Stage in Designated Office (DO/US) under 35 U.S.C. § 371 [13-8]—page 4 of 6)

**TOTAL FEE DUE****VII. The total fee due is:**

Completion fee(s) \$ 0  
Extension fee (if any) \$ 0  
TOTAL FEE DUE \$ 0

**PAYMENT OF FEES****VIII.**

- ☐ Attached is a ☐ check ☐ money order in the amount of \$ \_\_\_\_\_  
☒ Authorization is hereby made to charge the amount of \$ \_\_\_\_\_  
☒ to Deposit Account No. 23-0442  
☐ to Credit card as shown on the attached credit card information authorization form PTO-2038.

**WARNING:** Credit card information should not be included on this form as it may become public.

- ☒ Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

A duplicate of this paper is attached.

**AUTHORIZATION TO CHARGE ADDITIONAL FEES****IX.**

**WARNING:** Accurately count claims, especially multiple dependant claims, to avoid unexpected high charges if extra claims are authorized.

**NOTE:** "A written request may be submitted in an application that is an authorization to treat any concurrent or future reply, requiring a petition for an extension of time under this paragraph for its timely submission, as incorporating a petition for extension of time for the appropriate length of time. An authorization to charge all required fees, fees under § 1.17, or all required extension of time fees will be treated as a constructive petition for an extension of time in any concurrent or future reply requiring a petition for an extension of time under this paragraph for its timely submission. Submission of the fee set forth in § 1.17(a) will also be treated as a constructive petition for an extension of time in any concurrent reply requiring a petition for an extension of time under this paragraph for its timely submission." 37 C.F.R. § 1.136(a)(3).

**NOTE:** "Amounts of twenty-five dollars or less will not be returned unless specifically requested within a reasonable time, nor will the payer be notified of such amounts; amounts over twenty-five dollars may be returned by check or, if requested, by credit to a deposit account." 37 C.F.R. § 1.26(a).

**NOTE:** The previous practice of holding applications abandoned if an authorization to charge fees under 37 C.F.R. § 1.16 has been provided instead of an authorization to charge fees under 37 C.F.R. § 1.492 has been changed. The Office amended 37 C.F.R. § 1.25(b), effective November 7, 2000, so that an authorization to charge fees under 37 C.F.R. § 1.16 in an international application entering the national stage under 35 U.S.C. § 371 is now accepted by the Office as an authorization to charge fees under 37 C.F.R. § 1.492.

(Completion of Filing Requirements for International Application Entering National Stage in Designated Office (DO/US) under 35 U.S.C. § 371 [13-8]—page 5 of 6)

☒ Please charge, in the manner authorized above, the following additional fees that may be required by this paper and during the entire pendency of this application:

- ☐ 37 C.F.R. §§ 1.492(a)(2), 1.492(a)(3), or 1.492(a)(5) (filing fees)  
☐ 37 C.F.R. § 1.492(b) (presentation of extra claims)

NOTE: Because additional fees for excess or multiple dependent claims not paid on filing, or on later presentation, must only be paid, or these claims cancelled by amendment prior to the expiration of the time period set for response by the PTO in any notice of fee deficiency (37 C.F.R. § 1.16(d)), it might be best not to authorize the PTO to charge additional claim fees, except possibly when dealing with amendments after final action.

- ☒ 37 C.F.R. § 1.17 (application processing fees)  
☒ 37 C.F.R. § 1.17(a)(1)-(5) (extension fees pursuant to § 1.136(a)).

WARNING: While 37 C.F.R. § 1.17(a), (b), (c) and (d) deal with extensions of time under § 1.136(a), this authorization should be made only with the knowledge that: "Submission of the appropriate extension fee under 37 C.F.R. § 1.136(a) is to no avail unless a request or petition for extension is filed." (Emphasis added). Notice of November 5, 1985 (1060 O.G. 27).

- ☐ 37 C.F.R. § 1.18 (issue fee at or before mailing of Notice of Allowance, pursuant to 37 C.F.R. § 1.311(b)).

NOTE: Section 1.311(b) provides that an authorization to charge the issue fee (§ 1.18) to a deposit account may be filed in an individual application only after the mailing of the notice of allowance. Accordingly, general authorizations to pay fees and specific authorizations to pay the issue fee that are filed prior to the mailing of a notice of allowance will generally not be treated as requesting payment of the issue fee and will not be given effect to act as a reply to the notice of allowance. Applicant, when paying the issue fee, should submit a new authorization to charge fees, such as by completing box 6b on the current PTOL-85B form. Where no reply to the notice of allowance is received, the application will stand abandoned notwithstanding the presence of general authorizations to pay fees or a specific authorization to pay the issue fee that were submitted prior to mailing of the notice of allowance. Where an attempt is made to pay the issue fee but an incorrect amount is submitted, § 1.311(b)(1), or where the Office's issue fee transmittal form (currently PTOL-85(B)) is completed by applicant and submitted, § 1.311(b)(2), in reply to a notice of allowance, an exception will be made. Such submissions will operate as a request to charge the issue fee to any deposit account identified in a previously filed (i.e., submitted prior to the mailing of the notice of allowance) authorization to charge fees, and will be allowed to act as payment of the correct issue fee, § 1.311(b). See also the change to § 1.26(b). Notice of September 8, 2000, Fed. Reg. 54603-54683, at 54646 and 54647.

NOTE: 37 C.F.R. § 1.28(b) requires "Notification of any change in loss of entitlement to small entity status must be filed in the application . . . prior to paying, or at the time of paying . . . issue fee." From the wording of 37 C.F.R. § 1.28(b): (a) notification of change of status must be made even if the fee is paid as "other than a small entity" and (b) no notification is required if the change is to another small entity.

- ☐ 37 C.F.R. § 1.492(e) and (f) (surcharge fees for filing the declaration and/or an English translation of an international application later than 20 months from the earliest claimed priority date)

WARNING: It is suggested that you always check this last authorization.

Reg. No.: 28,333

Tel. No.: (203 ) 261-1234

Customer No.: 004955

Milton Oliver

SIGNATURE OF PRACTITIONER

MILTON OLIVER

(type or print name of practitioner)

P.O. Address

(Completion of Filing Requirements for International Application Entering National Stage in Designated Office (DO/US) under 35 U.S.C. § 371 (13-8)—page 6 of 8)

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Label 11-F June 2002

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Milton Oliver, Esq.

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870-003-171

Applicant: **Wolfgang Arno WINKLER**For: **MINIATURE FAN OR MICRO-FAN**

Serial No./Patent No.

**DT03 Rec'd PCT/PTO 01 JUL 2004**

Filed/Issued:

The following papers were received in the U.S. Patent and Trademark Office:

<input type="checkbox"/> RCE	<input type="checkbox"/> Issue Fee Transmittal
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Express Mail No. **EV 452364894 US**Attorney: **MMO/dt** Date Mailed **7/1/2004** Docket No. **870-003-171**

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